

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

WACHOVIA SECURITIES, LLC, a Delaware  
Corporation and successor in interest to A.G.  
EDWARDS & SONS, INC.,

Plaintiff,

v.

FRANK J. BRAND, II, MARVIN  
SLAUGHTER, STEPHEN N. JONES, AND  
GEORGE W. STUKES, individuals,

Defendants.

CIVIL ACTION NO.08-02349-TLW

**PLAINTIFF WACHOVIA SECURITIES, LLC'S  
REPLY IN FURTHER SUPPORT OF REQUEST FOR LEAVE  
TO SUBMIT SUPPLEMENTAL BRIEFS**

Defendants have opposed Plaintiff's request for leave to submit supplemental briefs analyzing *Raymond James Financial Svcs., Inc. v. Bishop*, 596 F.3d 183 (4<sup>th</sup> Cir. 2010), a recent case in which the Fourth Circuit Court of Appeals vacated an arbitration award.<sup>1</sup> Even though the *Raymond James* Court acted pursuant to Section 10(a)(4) of the Federal Arbitration Act—the same basis on which Wachovia Securities has urged vacation of the award rendered in this action—Defendants contend that “*Raymond James* bears no relevance to the instant matter.” *Def. Response*, at p. 2. Mischaracterizing the basis for Wachovia Securities’ Motion To Vacate, Defendants maintain that Wachovia is contending only that the

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<sup>1</sup> By Order dated March 26, 2010, the Fourth Circuit Court of Appeals denied Appellants’ Petition for Rehearing and Petition for Rehearing *En Banc* in *Raymond James*.

“arbitration panel in the instant matter either misinterpreted or misapplied substantive state law.” *Id.*

Defendants are mistaken. To adopt a phrase used by the *Raymond James* Court, “the arbitration panel [here] committed no mere error of law.” Slip Op. at 18. Rather, as extensively discussed by Wachovia Securities in its prior submissions to this Court, the panel below lacked the very power to act under the South Carolina Frivolous Proceedings Act. Consequently, the panel “exceeded its power” by attempting to award sanctions under that Act, and its sanctions award must be set aside under Section 10(a)(4) of the FAA. The reasoning and result of *Raymond James* are thus substantially relevant to Wachovia Securities’ Motion To Vacate, and supplemental briefing would be both helpful and appropriate.

This 6<sup>th</sup> day of April, 2010.

ROBINSON, BRADSHAW & HINSON, P.A.

/s/ Stephen M. Cox

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